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PTO/SB/64 (10-05)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
LIG 0002P

First named inventor: Fox, John

Application No.: 10/788,724

Art Unit: 2883

Filed: February 26, 2004

Examiner: Peng, Charlie

Title: Controlled-intensity multiple-frequency multiple-axis illumination of macroscopic specimens from a single light source using special bifurcated cables

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☒ Small entity-fee \$ 750 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of reponse to requirement for restriction (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

### 3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

### WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

*William C. Fuess*

Signature

July 2, 2006

Date

William C. Fuess

Typed or printed name

30,054

Registration Number, if applicable

10951 Sorrento Valley Road Suite 2G

Address

858 453 3574 after 2:00 P.M.

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San Diego, CA 92121

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Request to re-check non-receipt of paper

### CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

July 2, 2006

Date

*William C. Fuess*

Signature

*William C. Fuess*

Typed or printed name of person signing certificate



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John S. FOX ) Confirmation No.: 6809  
Serial No.: 10/788,724 ) Group Art Unit: 2883  
Filed: February 26, 2006 ) Examiner: Peng. C. U.  
For: **Controlled-intensity multiple-frequency multiple-axis  
illumination of macroscopic specimens from a single light source  
using special bifurcated cables**  
Atty's Docket No.: FOX 0002P )

San Diego, California  
July 3, 2006

REQUEST TO RE-CHECK NON-RECEIPT OF PAPER

Mail Stop Petition  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The present unintentionally abandoned application is timely petitioned to be revived by the attached form PTO/SB/64.

Before reviving the application, and collecting the fee, the Petitions Examiner is, however, requested to make, by calling such group in the PTO as may prove pertinent if necessary, one further inquiry as to whether the paper not received - a response to a requirement for restriction - was in actual fact timely received in the PTO.

Applicants' undersigned representative believes that the paper attached hereto as EXHIBIT A was timely sent to the PTO on the indicated date of November 22, 2005. However, Applicant cannot now prove this to the standards of the PTO, which evidently require a certificate of express mailing in support of any Petition that the document WAS timely mailed. Applicant's response of 22 November 2005 was not so express mailed, but was mailed only by normal post.

Moreover, this November 22, 2005 document is flawed, Specifically, and although all other information is correct, the TITLE of the application is wrongly stated. (Applicant's undersigned representative's e-mail address changed in the interim.)

This Applicants' error in the TITLE of his application would not normally seem to make that the document would fail to become associated with the correct application. Applicant notes that the subject application serial number 10/788,734, and also another continuation-in-part application of Applicant no. 10/810,993, both show on the PAIR system to be within electronic form, with Applicant's EXHIBIT A November response within neither.

Applicant's undersigned representative does not know whether that is "the end of the matter", and, forbearing that the attached November paper is evidently not where it should be, it must be assumed not to have been received and the NOTICE OF ABANDONMENT properly sent, OR (2) there might be some "file unlocated" correspondence in the Examining Group 2883 in which Applicants' paper might be present.

Should any such possible location exist (as might besuit the irregularity in the title of Applicant's November document), the Petitions Examiner is asked to check this location, if possible, before entering the accompanying Petition for Revival of an Application Abandoned Unintentionally and collecting the fee therefore. Thank you.

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Applicant's undersigned attorney is at the Petition Examiner's disposal should the Petitions Examiner wish to discuss any matter which might facilitate determination on this request.

Sincerely yours,

*William C. Fuess*

William C. Fuess  
Registration Number 30,054

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[X] Attorney of Record  
[ ] Filed Under 37 CFR §1.34(a)

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date written below.

July 3, 2006  
Date

William C. Fuess  
Typed Name of Person  
Mailing Correspondence

*William C. Fuess*  
Signature of Person Mailing  
Correspondence